

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

Carlos Macias,

Plaintiff,

v.

U.S. District Court Judge  
Kari A Dooley, et al.,

Defendants.

Case No. 2:24-cv-00483-GMN-BNW

**ORDER**

Before the Court is Plaintiff's application to proceed *in forma pauperis*. ECF Nos. 4 and 5. Plaintiff submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability to prepay fees or costs or give security for them. Accordingly, the Court will grant his request to proceed *in forma pauperis*. Plaintiff will, however, be required to make monthly payments toward the full \$350.00 filing fee when he has funds available. The court now screens Plaintiff's complaint.

**I. ANALYSIS**

**A. Screening standard**

Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable claims and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may be granted or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must "contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The court liberally construes pro se complaints and may only dismiss them "if it appears beyond doubt that the plaintiff can prove no set of facts in support of

1 his claim which would entitle him to relief.” *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir.  
2 2014) (quoting *Iqbal*, 556 U.S. at 678).

3 In considering whether the complaint is sufficient to state a claim, all allegations of  
4 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wylor*  
5 *Summit P’ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).  
6 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff  
7 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.  
8 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*  
9 Unless it is clear the complaint’s deficiencies could not be cured through amendment, a pro se  
10 plaintiff should be given leave to amend the complaint with notice regarding the complaint’s  
11 deficiencies. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

### 12 **B. Screening the Complaint**

13 Plaintiff’s complaint is hard to understand. Specifically, it is not clear which defendant is  
14 responsible for what conduct. ECF No. 1-1. Even liberally construing Plaintiff’s complaint, the  
15 Court is unable to determine exactly what claims Plaintiff is attempting to allege against which  
16 defendants or what are the factual allegations underlying each claim. As a result, the Court cannot  
17 evaluate whether Plaintiff states any claims for relief. Accordingly, the Court will dismiss  
18 Plaintiff’s complaint without prejudice and with leave to amend.

### 19 **C. Instructions for Amendment**

20 Plaintiff is advised that all defendants must be identified in the caption of the pleading and  
21 that he must specify which claims he is alleging against which defendants. Although the Federal  
22 Rules of Civil Procedure adopt a flexible pleading policy, Plaintiff still must give defendants fair  
23 notice of each of the claims he is alleging against each defendant. Specifically, he must allege  
24 facts showing how each named defendant is involved and the approximate dates of their  
25 involvement.

26 Plaintiff is also advised that if he chooses to file an amended complaint, the original  
27 complaint no longer serves any function in this case. As such, if he files an amended complaint,  
28 each claim and the involvement of each defendant must be alleged sufficiently. The court cannot

1 refer to a prior pleading or to other documents to make his amended complaint complete. The  
2 amended complaint must be complete in and of itself without reference to prior pleadings or to  
3 other documents.

4 **II. CONCLUSION**

5 **IT IS THEREFORE ORDERED** that Plaintiff's motion to proceed *in forma pauperis*  
6 (ECF Nos. 4 and 5) is **GRANTED**. Nevertheless, the full filing fee shall still be due, pursuant to  
7 28 U.S.C. § 1915, as amended by the Prisoner Litigation Reform Act. The movant herein is  
8 permitted to maintain this action to conclusion without the necessity of prepayment of fees or  
9 costs or the giving of security therefor. This order granting in forma pauperis status shall not  
10 extend to the issuance and/or service of subpoenas at government expense.

11 **IT IS FURTHER ORDERED** that, pursuant to 28 U.S.C. § 1915, as amended by the  
12 Prisoner Litigation Reform Act, the Louis C. Powledge Unit shall pay to the Clerk of the United  
13 States District Court, District of Nevada, 20% of the preceding month's deposits to the account of  
14 Carlos Macias, # 02173322 (in months that the account exceeds \$10.00) until the full \$350 filing  
15 fee has been paid for this action. The Clerk shall send a copy of this order to the attention of  
16 Nicole Sandiner, Senior Warden for Louis C. Powledge Unit, 1400 FM 3452, Palestine, TX  
17 75803.

18 **IT IS FURTHER ORDERED** that, even if this action is dismissed, or is otherwise  
19 unsuccessful, the full filing fee shall still be due, pursuant to 28 U.S.C. §1915, as amended by the  
20 Prisoner Litigation Reform Act.

21 **IT IS FURTHER ORDERED** that the clerk of court must detach and separately file  
22 Plaintiff's complaint (ECF No. 1-1).

23 **IT IS FURTHER ORDERED** that Plaintiff will have until May 11, 2024, to file an  
24 amended complaint. Failure to file an amended complaint by that date may result in dismissal of  
25 the case.

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1           **IT IS FURTHER ORDERED** that the Clerk of Court shall mail Plaintiff a copy of the  
2 prisoner, pro se form complaint.

3           **IT IS ORDERED** that Plaintiff's complaint be dismissed with leave to amend.  
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6           DATED: April 11, 2024

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9           BRENDA WEKSLER  
10           UNITED STATES MAGISTRATE JUDGE  
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